

RM-11506

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2008 SEP 18 A
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September 16, 2008

Via Courier

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
c/o 236 Massachusetts Avenue, NE
Suite 110
Washington, DC 20002

FILED/ACCEPTED

SEP 16 2008

Federal Communications Commission
Office of the Secretary

Re: Petition for Rulemaking to Amend Section 73.202(b)
the Table of Allotments for Ten Sleep, Wyoming

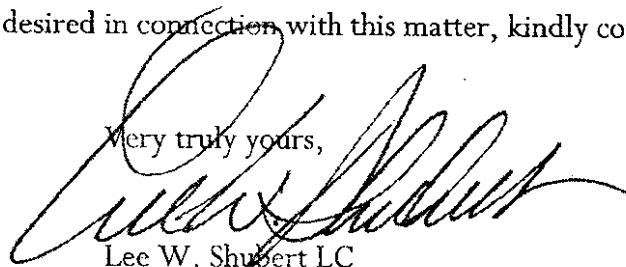
Dear Ms. Dortch:

Transmitted herewith, on behalf of **LEGEND COMMUNICATIONS OF WYOMING, LLC** ("LCW"), the permittee of Radio Station KYTS(FM), Ten Sleep, Wyoming (FCC Facility ID No. 165979) is an original and four (4) copies of a Petition for Rulemaking that seeks to amend Section 73.202(b) of the Commission's Rules to allot Channel 267A to Ten Sleep, Wyoming, as a backfill procedure to maintain that community's first local aural service.

Contemporaneous to this submission, LCW is submitting a Construction Permit/Modification Application (FCC Form 301) for authority to construct on Channel 267A at Ten Sleep, Wyoming, as well as a Form 301 to modify LCW's Construction Permit for KYTS to change the station's community of license to Manderson, Wyoming.

Should further information be desired in connection with this matter, kindly communicate directly with this office.

Very truly yours,



Lee W. Shubert LC

Enclosure (5)

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SEP 16 2008

Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Amendment of Section 73.202(b),
FM Table of Allotments,
FM Broadcast Stations.
(Ten Sleep, Wyoming)

MB Docket No. _____

RM - _____

To: Office of the Secretary
Attn.: Chief, Audio Division

PETITION FOR RULE MAKING

LEGEND COMMUNICATIONS OF WYOMING, LLC ("*Legend*") hereby requests the allotment Channel 267A to Ten Sleep, Wyoming, in order to maintain that community's first local service.^{1/} If this Petition is granted, Legend will prosecute its contemporaneous application for 267A at Ten Sleep, and will construct the facilities if its application is granted.^{2/} The following table summarizes the changes requested in this Petition:

CITY	CHANNEL	
	EXISTING	PROPOSED
Ten Sleep, Wyoming	271C2 ^{3/}	267A

^{1/} Pursuant to *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006) ("*Streamlining R&O*"), Legend is contemporaneously filing a Form 301 application for this proposal.

^{2/} Concurrent with the filing of this Petition for Rulemaking, Legend also is submitting a Construction Permit/Modification Application (FCC Form 301) for authority to construct on FM Channel 267A at Ten Sleep, Wyoming.

^{3/} Legend is contemporaneously submitting documentation to change Channel 271C2 to Channel 271C3 and to re-allot the Channel to Manderson, Wyoming.

As demonstrated in the Technical Exhibit, Channel 267A can be allotted to Ten Sleep consistent with Section 73.207 the Commission's Rules with respect to all existing and proposed domestic allotments and facilities. *See* Exhibit 1. A seventy (70) dBu signal can be provided to Ten Sleep from the proposed reference coordinates. *See* Exhibit 2.

Legend is the permittee of Radio Station KYTS(FM), Ten Sleep, Wyoming (FCC Facility ID No. 165979) (the "*Station*"), but the Station has neither yet been constructed nor become operational. Accordingly, this "backfill" proposal is consistent, and in accordance, with the policy articulated in *Pacific Broadcasting of Missouri LLC*, (Letter Ref. No. 1800B3-LAS [Media Bureau Dec. 21, 2001]), *app for rev. denied*, Memorandum Opinion and Order, 18 FCC Rcd 2291 (2003); *recon. denied*, Memorandum Opinion and Order, 19 FCC Rcd 10950 (2004).

This Petition for Rule Making is being filed in order to ensure that Ten Sleep retains local service. The Station presently is authorized to operate on Channel 271C2 at Ten Sleep, and Legend is contemporaneously filing an application to move Channel 271 from Ten Sleep to Manderson, Wyoming, as Manderson's first local service. Accordingly, Legend requests that the Commission treat this petition as a "hybrid" filing. *See* ¶ 17 of the *Streamlining R&O*. The Commission has already determined that Ten Sleep, Wyoming, is a community for allotment purposes by virtue of the original allotment of Channel 271C2 to Ten Sleep.

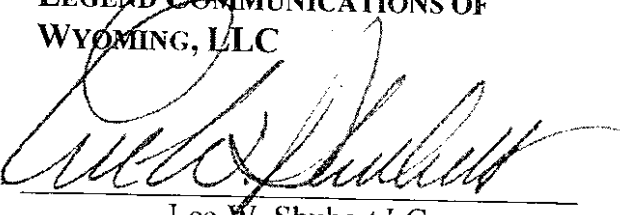
For the foregoing reasons, Legend respectfully requests that the Commission allot
267A to Ten Sleep, Wyoming.

BNPH-20080916ADK

Respectfully submitted,

**LEGEND COMMUNICATIONS OF
WYOMING, LLC**

By


Lee W. Shubert LC
Its Attorneys

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September 16, 2008

PETITION FOR RULE MAKING
FCC FORM 301 COMPANION
LEGEND COMMUNICATIONS OF WYOMING, LLC
NEW FM STATION
ALLOT CHANNEL 267A
TEN SLEEP, WYOMING
August 2008

TECHNICAL STATEMENT

This technical statement was prepared on behalf of Legend Communications of Wyoming, LLC ("Legend"). Legend is proposing the allotment of Channel 267A at Ten Sleep, Wyoming, in conjunction with a proposed change of community of license of its outstanding permit for Channel 271C2 from Ten Sleep, Wyoming to Manderson, Wyoming. Under the Petition for Rule Making process, an FCC Form 301 application is to be submitted to the Commission along with the Petition for Rule Making. As such, this filing constitutes the required application.

It is noted that the proposed application site differs from the suggested allocation reference site for Channel 267A at Ten Sleep, Wyoming, as the proposed implementation site is not located in, or immediately near, the center of Ten Sleep. Therefore, attached as Exhibit A is a demonstration that the proposed allocation site meets the Commission's allocation criteria.

As the proposed antenna supporting structure for the New FM antenna will consist of a 50 foot telephone pole, the Federal Aviation Administration has not been apprised of this proposal. Further, the pole does not require tower registration.¹ As there is no imminent tower/pole construction, a formal environmental analysis has not be undertaken, aside from radio frequency radiation compliance, which is attached as Exhibit B. The balance of the environmental issues will be reviewed when Legend is initially designated the auction winner for the proposed channel at Ten Sleep, Wyoming.

All other necessary documentation used to certify the technical portion of FCC Form 301 has been forwarded to Legend and is available to the Commission upon request.

1) Based on a review using the Commission's TOWAIR program.

PETITION FOR RULE MAKING
FCC FORM 301 COMPANION
LEGEND COMMUNICATIONS OF WYOMING, LLC
NEW FM STATION
ALLOT CHANNEL 267A
TEN SLEEP, WYOMING
August 2008

EXHIBIT A

Clear Allocation Reference Site

This application seeks to allot Channel 267A to the community of Ten Sleep, Wyoming to replace Channel 271C2. As the proposed application site specifies a location away from the community of Ten Sleep, an allotment site has been identified. As denoted on Exhibit A1, from the proposed allocation reference site, Channel 267A meets the Commission's minimum distance separation requirements to all licensed, proposed or applied for facilities. From the proposed allocation reference site, a maximum Class A would place a theoretical 70 dBu signal over 100% of the community of Ten Sleep, Wyoming, as shown on Exhibit A2. Further, as shown on Exhibit A3, the proposed site is not located offshore or on airport property and is, therefore, suitable for tower construction. Therefore, this proposal meets the Commission's allocation criteria.

PETITION FOR RULE MAKING
FCC FORM 301 COMPANION
LEGEND COMMUNICATIONS OF WYOMING, LLC
NEW FM STATION
ALLOT CHANNEL 267A
TEN SLEEP, WYOMING
August 2008

EXHIBIT A1

Allocation study for Channel 267A Ten Sleep, Wyoming
Using Proposed Allocation Site as Reference

REFERENCE	CLASS = A	DISPLAY DATES
44 02 08.0 N.		DATA 08-16-08
107 26 50.0 W.	Current Spacings to 3rd Adj.	SEARCH 08-18-08
----- Channel 267 - 101.3 MHz -----		

Call	Channel	Location	Ant	Azi	Dist	FCC	Margin
	Lat.	Lng.		Power	HAAT		
AD267	ADD 267A	Ten Sleep	WY	0.0	0.00	115.0	-115.00
	44 02 08.0	107 26 50.0	NC	6.000 kW	100 M		
Legend Communications of WY - Proposed allotment							
KDNO	LIC-N 269C1	Thermopolis	WY	213.7	79.62	75.0	4.62
	43 26 18.0	107 59 37.0	NC	16.500 kW	580 M		
	Carjlm, LLC BLH-20011030AAI						
KWHO	APP 266C2	Cody	WY	299.1	124.56	106.0	18.56
	44 34 13.0	108 49 09.0	CX	5.400 kW	427 M		
	White Park Broadcasting, Inc. BMPH-20070828AAV						
KWHO	RSV 266C2	Cody	WY	299.1	124.56	106.0	18.56
	44 34 13.0	108 49 09.0		50.000 kW	150 M		
	White Park Broadcasting, Inc.						
KWHO	APP 266C2	Cody	WY	299.1	124.56	106.0	18.56
	44 34 13.0	108 49 09.0	CX	5.400 kW	427 M		
	White Park Broadcasting, Inc. BMPH-20070828AAV						
KDDV-FM	CP 268C0	Wright	WY	90.6	175.89	152.0	23.89
	43 59 57.0	105 15 15.0	CX	100.000 kW	335 M		
	Legend Communications of WY BNPH-20060310AEL						
KIRC-FM	LIC 267C	Forsyth	MT	18.6	251.55	226.0	25.55
	46 10 32.0	106 24 21.0	CN	100.000 kW	308 M		
	Miles City, Forsyth Broad BLH-19800903AB						
AU7010615VAC	267C	Sinclair	WY	175.9	252.10	226.0	26.10
	41 46 19.0	107 13 40.0		100.000 kW	600 M		
	FCC RMrfs-113						
1239527	APP 267C3	Red Butte	WY	147.0	170.86	142.0	28.86
	42 44 28.0	106 18 31.0	CX	0.700 kW	539 M		
	Cochise Broadcasting, LLC BMPH-20080319ADW						
1239768	RSV 267C3	Red Butte	WY	147.0	170.86	142.0	28.86
	42 44 28.0	106 18 31.0		25.000 kW	100 M		
	Cochise Broadcasting, LLC						

Graham Brock, Inc. - Broadcast Technical Consultants

Reference

Latitude: 44-02-08 N
Longitude: 107-26-50 W
ERP: 6.00 kW
Channel: 267A
Frequency: 101.3 MHz
AMSL Height: 1618.96 m
Horiz. Pattern: Omni
Vert. Pattern: No
Prop Model : None

70 dBu (radius)

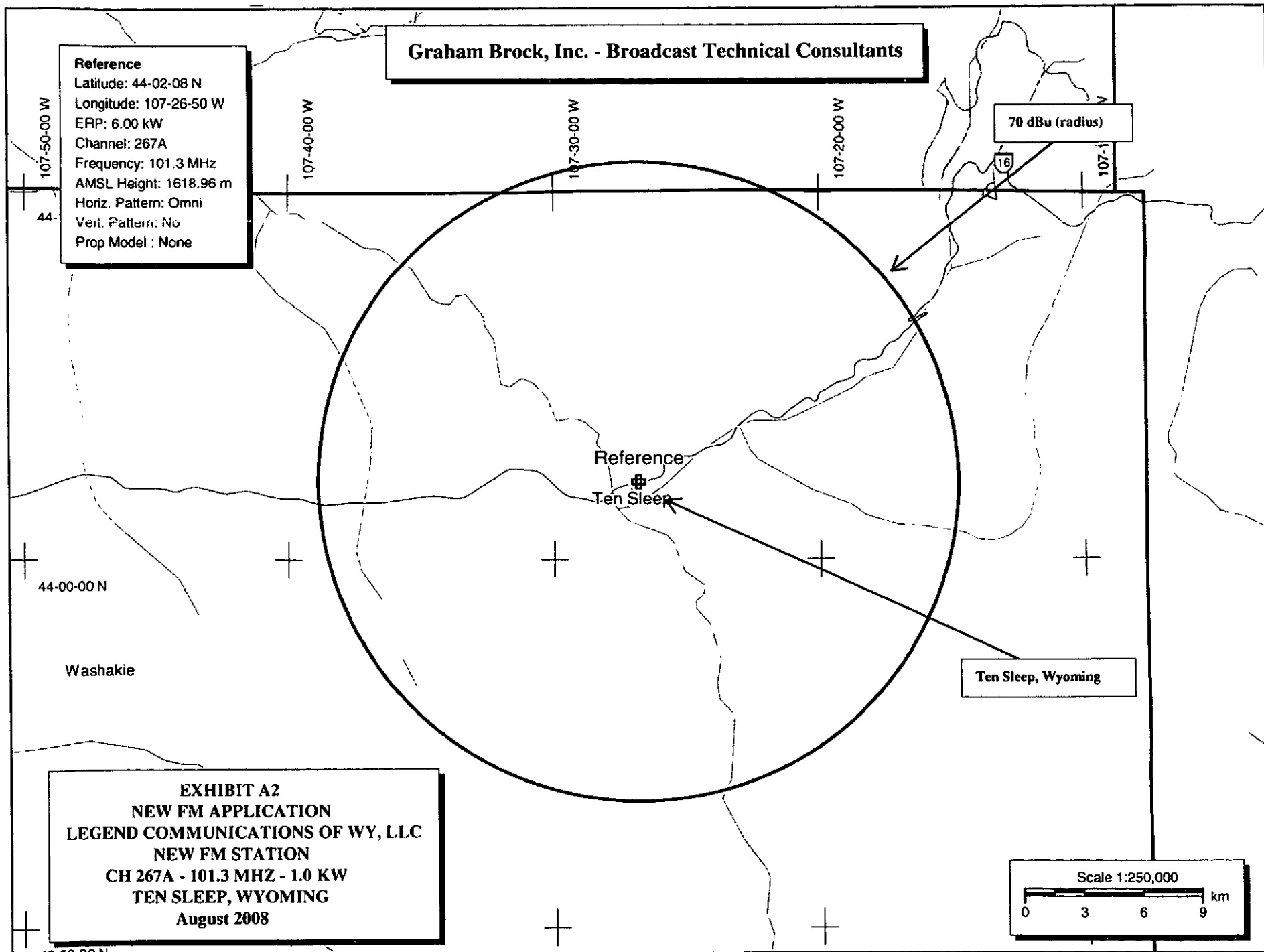
Reference
Ten Sleep

Ten Sleep, Wyoming

EXHIBIT A2
NEW FM APPLICATION
LEGEND COMMUNICATIONS OF WY, LLC
NEW FM STATION
CH 267A - 101.3 MHZ - 1.0 KW
TEN SLEEP, WYOMING
August 2008

Scale 1:250,000

0 3 6 9 km



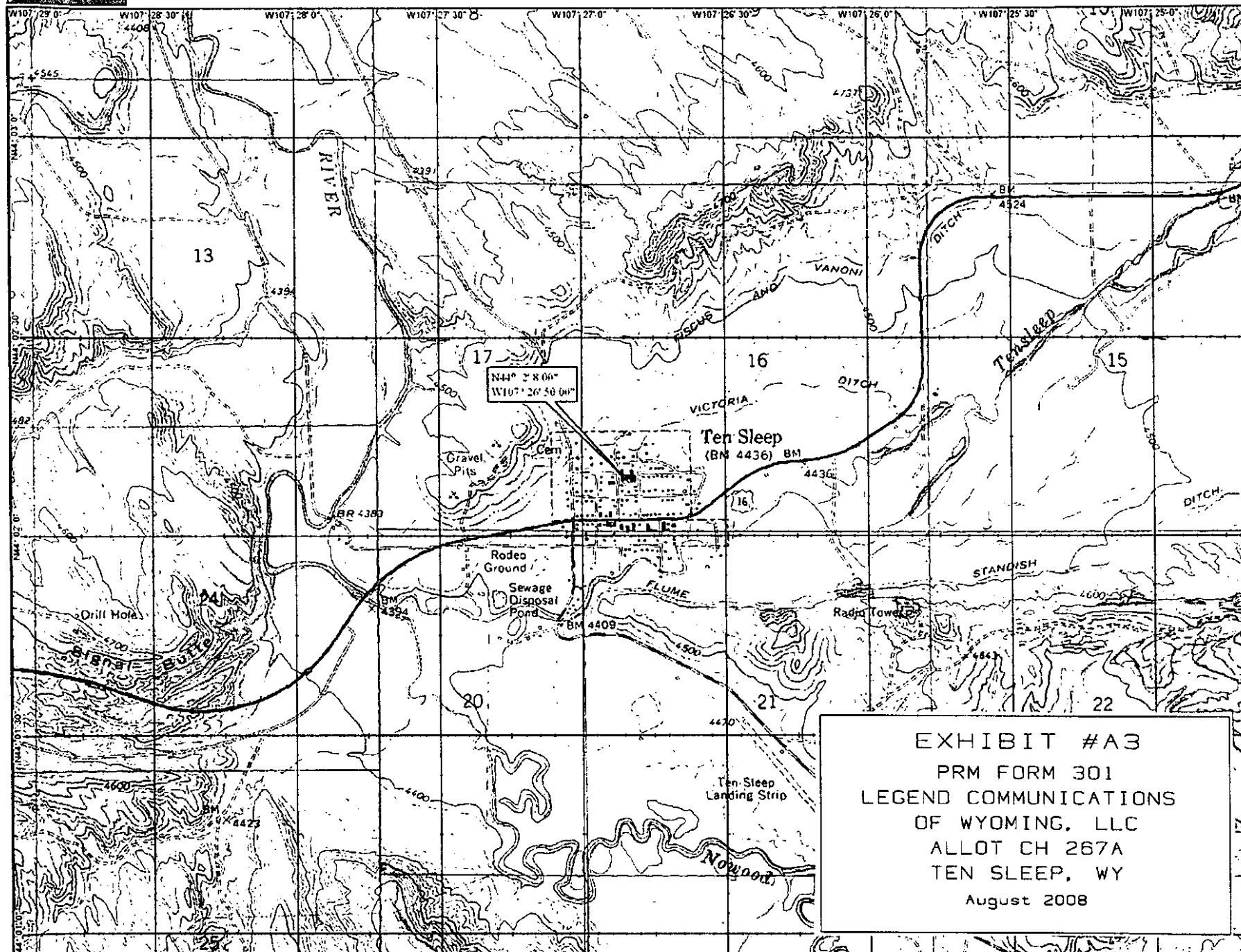


EXHIBIT #A3
PRM FORM 301
LEGEND COMMUNICATIONS
OF WYOMING, LLC
ALLOT CH 267A
TEN SLEEP, WY
August 2008

PETITION FOR RULE MAKING
FCC FORM 301 COMPANION
LEGEND COMMUNICATIONS OF WYOMING, LLC
NEW FM STATION
ALLOT CHANNEL 267A
TEN SLEEP, WYOMING
August 2008

EXHIBIT B

Radio Frequency Assessment

A study has been made to determine whether this proposal is in compliance with 47 C.F.R. §1.1307 of the Commission's rules and with OET Bulletin #65, dated August 1997 ("Bulletin"), regarding human exposure to radio frequency radiation in the vicinity of broadcast towers. As the proposed New FM antenna is being mounted on a relatively short structure, it was not possible to use the worksheets to verify that the proposed New FM facility is in compliance with the Commission's radio frequency exposure limits. This study considers all nearby stations and utilizes the appropriate formulas contained in the OET Bulletin.¹

The proposed New FM antenna system is to be mounted with its center of radiation 12.2 meters (40.0 feet) above the ground at the tower location and will operate with an effective radiated power of 1.0 kilowatt in the horizontal and vertical planes (circularly polarized). The proposed New FM antenna is to be a Electronics Research, Inc. rototiller style antenna (FCC/EPA Type #3). A single bay was used for worse case, however, the actual antenna may consist of more than one bay. (FCC/EPA Type #3) At 2.0 meters above the ground at the base

1) The contributions of the FM facilities were calculated using the FMModel program. A single bay EPA dipole antenna was used for calculation purposes. In cases where the number of bays of the antenna was known, this data was used in the FMModel program.

of the tower, the height of an average person, the New FM antenna system will contribute 0.1428 mw/cm^2 .² Based on exposure limitations for a controlled environment, 14.3% of the allowable limit is reached at 2.0 meters above the ground at the base of the tower. For uncontrolled environments, 71.4% of the allowable limit is reached at 2.0 meters above the ground at the base of the tower.

Since this contribution level is less than the ANSI limits, it is believed the proposed New FM facility is in compliance with the radio frequency radiation exposure limits, as required by the Federal Communications Commission. Legend will also insure that warning signs have been posted in the vicinity of the tower warning of potential radio frequency radiation hazards at the site. In addition, Legend will reduce the power of the facility or cease operation in cooperation and coordination with other tower users, as necessary, to protect persons having access to the site, tower, or antenna from radio frequency radiation in excess of FCC guidelines.

2) This level of field occurs at 10.0 meters out from the base of the tower and is considered worst case.